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	Policy #:	G-08
	Supersedes:	08-19-2004
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PURPOSE

The State of Michigan and the Department of Licensing and Regulatory Affairs (LARA) firmly support the prevention and elimination of unlawful harassment in the employment environment. The department's harassment-reporting procedures provide notice to our employees of the necessary action they must take to address any violation of this policy.

Application

This policy applies to all LARA employees. In addition, this policy covers non-employees, including clients, customers, vendors, independent contractors, contract employees, applicants for employment, members of the public with whom employees have contact in the course of their work, and visitors to the workplace or events sponsored or sanctioned by the department.

Authority/Legal Basis

Michigan Department of Civil Service Rule 1-8; Elliott-Larsen Civil Rights Act (Act 453 of 1976, as amended); the Michigan Persons with Disabilities Civil Rights Act (Act 220 of 1976, as amended); Title VI and VII of the Civil Rights Act of 1964; Title I of the Americans with Disabilities Act of 1990; Executive Directive 2003-24; the Age Discrimination in Employment Act of 1967; and Title IX of the Education Amendments of 1972, as amended.

Definition

Per Chapter 9 of the Civil Service Rules, discriminatory harassment means unwelcome advances, requests for favors, and other verbal or physical conduct or communication based on religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability, or genetic information under any of the following conditions:

- (a) Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment.
- (b) Submission to or rejection of the conduct or communication by a person is used as a factor in decisions affecting the person's employment.
- (c) The conduct or communication has the purpose or effect of substantially interfering with a person's employment or creating an intimidating, hostile, or offensive employment environment.

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PROHIBITED BEHAVIORS

Listed below are general examples of discriminatory harassment, which may include, but are not limited to:

- Requests for sexual favors;
- Talking about or calling attention to another person's body or sexual characteristics;
- Unwelcome physical contact, including but not limited to hugging, rubbing, touching, patting, pinching, or brushing another person's body;
- Crude or offensive language, degrading words or comments, sounds, innuendo, slurs, gestures, negative stereotypes, threats, or jokes, whether communicated verbally, by electronic mail, or otherwise, used to denigrate an individual's age, color, disability, height, genetic information, marital status, national origin, partisan considerations, race, religion, sex, sexual orientation, or weight;
- Displaying pictures, letters, objects, graffiti, screen savers, cartoons, calendars, posters, or other visuals used to denigrate an individual's age, color, disability, height, genetic information, marital status, national origin, partisan considerations, race, religion, sex, sexual orientation, or weight; or

RESPONSIBILITY OF EMPLOYEES

Supervisors and managers have a special obligation to prevent discriminatory behavior and eliminate harassment of employees. When they become aware of such behavior, supervisors and managers should immediately report the behavior to higher-level management, and take prompt and appropriate action to address the behavior.

All departmental employees are responsible for assuring that harassment or discriminatory behavior does not occur by conducting himself or herself in an appropriate manner. If an employee is subjected to or observes inappropriate behavior, they must report this in writing to their supervisor, a member of management, or the LARA Office of Human Resources (OHR).

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PROCEDURES

To prevent discriminatory harassment of or by LARA employees in any form, the department has established procedures by which allegations of discriminatory harassment may be brought to the attention of the appropriate authorities, investigated, and resolved. It should be noted that the department is **required** to investigate allegations of harassment it becomes aware of, even if a complainant does not wish the department to conduct an investigation.

The department will make a good-faith effort to eliminate and prevent discriminatory harassment in the workplace by:

- Investigating all reports of discriminatory harassment;
- Appointing one or more investigators to investigate allegations of discriminatory harassment;
- Identifying the persons to whom employees may report discriminatory harassment;
- Implementing appropriate education and training programs; and
- Keeping adequate records of reports and investigations regarding discriminatory harassment charges, consistent with Civil Service rules and regulations and applicable collective bargaining agreements.

Employees of LARA are prohibited from engaging in discriminatory harassment. The department also requires supervisory personnel to be responsible for monitoring such activity in order to maintain a work environment free from such harassment. Supervisors should be available to discuss with employees and/or clients/customers any incidents of discriminatory harassment of which the employees and/or clients/customers are aware in order to bring about a resolution to the problem. If managerial and supervisory staffs are aware of any instances in the work place, they must take appropriate action to bring about a discontinuance of such harassment. The Office of Human Resources must be contacted in order to assist supervisors and give guidance on this issue. If employee(s) or members of the public bring to the attention of a department supervisor that they are aware of someone being discriminatorily

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harassed, or that they themselves are being discriminatorily harassed, the complaint handling process outlined below in this document must be followed.

If a LARA employee complains of harassment by a member of the public, the department will take reasonable steps to end the harassment. These steps may include contacting the member of the public's company, employer, etc., to report the allegation.

The Department of Licensing and Regulatory Affairs (LARA) will take reasonable measures within our control to assure that a person who in good faith reports, complains about, or participates in an investigation of a discriminatory harassment allegation will not be subjected to retaliation.

Information about or assistance with discriminatory harassment issues may be obtained from LARA's Office of Human Resources, prior to or concurrent with making a report or complaint of discriminatory harassment.

REPORTING PROCESS

Who is Obligated to Report Discriminatory Harassment

All employees: A classified employee is obligated to report to management in writing, or verbally with written follow-up, (using the "Complaint of Possible Unlawful Discrimination" form) in either of the following circumstances:

- If the employee is subjected to discriminatory harassment in the workplace by a supervisor, manager, co-worker, or other person; or
- If the employee witnesses a supervisor, manager, coworker, or other person in the workplace engaging in discriminatory harassment of another person.

Supervisors and Managers: A supervisor or manager who witnesses an employee engaged in discriminatory harassment of another person is obligated to report the behavior to the Office of Human Resources and to take appropriate action to prevent any further harassment, as advised by OHR.

Reporting Discriminatory Harassment

If an employee is harassed or witnesses discriminatory harassment of someone else, the employee is required to report the discriminatory harassment in writing, or verbally with written follow-up, (using the department's discriminatory harassment complaint

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form http://www.michigan.gov/documents/cis/HR_7101_179455_7.doc) to a supervisor or the LARA OHR. If an employee is harassed or witnesses discriminatory harassment by the employee's own supervisor, the employee is not required to report unwelcome conduct to that supervisor. The employee shall report the unwelcome conduct in writing, or verbally with written follow-up, directly to a higher-level supervisor or to the Office of Human Resources.

If an employee is harassed or witnesses discriminatory harassment by an investigator, the employee is not required to report unwelcome conduct to that investigator. The employee must report the unwelcome conduct in writing directly to a supervisor, another investigator, or the OHR.

Clients/Customers (members of the public) who believe they have been subject to discriminatory harassment by a LARA employee may file a complaint with the department's Office of Human Resources, or any LARA supervisor/manager.

When to Report Discriminatory Harassment

The employee is encouraged to report any discriminatory harassment immediately. However, in any event, the employee must report any discriminatory harassment within 180 calendar days after the alleged harassment. The investigation will be conducted in a timely manner. It will include, but is not limited to, an interview of the complainant and the alleged harasser. ([MDCS Regulation 1.03](#))

Complaint Handling

When the department investigates a discriminatory harassment complaint, the investigation will be conducted in accordance with Civil Service's rules and "Investigations of Discriminatory Harassment" regulations. The Office of Human Resources will assign an investigator to conduct the investigation.

If an employee lodges a complaint with a supervisor, the person who receives the complaint **must contact the Office of Human Resources by the next workday and report the incident.**

Retaliation

Retaliation of any kind is strictly prohibited against any employee who complains about harassment, resists harassment, or cooperates in an investigation of alleged harassment. Retaliation may include, but is not limited to, unwarranted discipline or

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interim ratings, denying promotional opportunity, intentionally pressuring, lying about, or otherwise covering up or attempting to cover up conduct such as that described in this policy. Employees who are found to have participated in retaliation will be subject to appropriate corrective action, up to and including dismissal.

Confidentiality

Confidentiality and privacy will be protected, to the extent provided by law, but persons from whom information is taken must be informed that the complainant and alleged harasser may have access to some or all of the complaint and the evidence.

Complaints

Unsubstantiated Complaints

If the investigation does not substantiate the complaint or it is determined that there is not reasonable cause to believe the allegation(s) of the complainant, the complainant and the alleged harasser will be informed of such, and the report shall be maintained only in confidential or grievance files maintained in the Office of Human Resources.

Substantiated Complaints

If the complaint is substantiated, or it is determined that there is reasonable cause to believe the allegation(s) is (are) true, a written report and findings of fact shall be prepared and forwarded to the Director of the Office of Human Resources, or designee, for review/action.

Subsequent to review by the Director of the Office of Human Resources, the investigator will notify the complainant and the alleged harasser of the results of the investigation.

Any violation of this work rule may result in discipline, up to and including termination of employment. The Director of the Office of Human Resources, or designee, will determine the appropriate corrective and/or disciplinary action.

Other Avenues for Complaints

In addition to the procedures established to activate investigation and resolution of complaints filed under the state's Discriminatory Harassment rule, LARA employees are extended protections under federal regulations that prohibit discrimination in both employment and in the administration of programs, services, and activities that receive

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federal financial assistance. Complaints alleging violations on prohibited bases may be filed:

- Directly with the appropriate federal agency; or
- Internally with LARA staff who have been assigned equal opportunity responsibilities under Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, as amended.

Notices outlining these provisions are posted throughout the department and can also be accessed via the department web page and intranet site. Additional information regarding these filing options can be obtained by contacting the Office of Human Resources. The OHR will be able to refer interested parties to appropriate LARA staff where resource and technical assistance services to aid in the federal filing process can be obtained.

Other options for complaint resolution are available through filing a grievance or filing with external agencies, such as the U.S. Equal Employment Opportunity Commission (EEOC) or the Michigan Department of Civil Rights (MDCR). The EEOC and MDCR have established specific deadlines for the review and disposition of discriminatory harassment complaints filed under their procedures. Questions about filing deadlines and/or other procedures should be directed to the respective enforcement agency.

Training

All departmental employees shall be required to attend training on discriminatory harassment that includes information on Civil Service Rule 1-8 and the LARA policy/work rule prohibiting discriminatory harassment. Employees are required to sign an acknowledgement of receipt of the training.

Records

To assure department-wide compliance with this policy, the OHR will monitor all reported incidents of discriminatory harassment and their resolution. All records of each incident will be kept within the Office of Human Resources for three years. If no additional complaints are filed or investigations are conducted regarding the alleged harasser during that time period, the record of the investigation shall then be placed in archives. The LARA Office of Human Resources shall maintain records of disciplinary action taken.